

# **Exhibit B**

**TRANSCRIPT OF 2:16-2:32**

**FERNWOOD CHASE PUBLIC HEARING**

Mayor: Ms. Ritter.

Ritter: Thank you. Um, I'd like to make a motion to deny the application and if I get a second I'll be happy to give my reasons.

Ward: Second.

Mayor: Thank you. Dr. Ward, Mr. Ritter, Mrs. Ritter.

Ritter: Thank you. I want to thank everybody. The applicant, all the folks who came out tonight. While I understand the desire to have this continued, I think its probably not to bring any good resolution. And so, . . . for me, I think its easier and for the folks here not to continue on with the uncertainty.

But I would like to address some of the comments Mr. Burkheimer made. He had a great deal to do with the love neighborhood in River Walk. He's an excellent engineer. I do agree he can design a project. Unfortunately, what's happened over the years is more an issue of changing regulations than it is being able to build something. And I think many pieces of property in the city are affected by the changing regulations, the changes in the flood plain maps and all of the issues that continue with the infrastructure. But I would like address two or three particular things for you which is leading me to my conclusion.

First of all, the City Council deals with evaluation on a level of service standard that was established in 1995. That had to do with how to analyze traffic impacts, school impacts and at that time the ability for good water. That was a problem back when the policy was established. So we're dealing with a very outdated policy on all of those issues. We also are dealing a comprehensive plan that is a policy. The level of service is a policy. None of them actually legally govern a decision by the City Council. If that were so, there wouldn't be applications. And I truly hesitate to say this living in a Dillons rule state and I hope this doesn't get me a backlash in Richmond, but who knows. If there is a reason there is a legislative decision on these rezoning applications. If it was a requirement we wouldn't get to vote on it. So bringing me to an argument or discussion that I have heard. I heard one side for Mr. Burkheimer, one side from many people who communicated with me which – it can be developed under the existing zoning. That may not be practical or a good idea for the owner of the property but that is what the law allows. If that property were developed in accordance with the zoning it would not come before the council for the legislative decisions. So we are not required to look at checked boxes and then vote yes or not based on how many boxes are checked. That's left to the legislative discretion of the members of the council. So I kind of wanted to make those points. I also wanted to talk to you a little – just a teensy bit about the drainage issues. A lot of that is title flooding. If the applications to be build many of you all's neighborhoods – Crest Harbor would be one, Fernwood Farms would certainly



be one and a lot of the surrounding ones. Today's flood plain regulations would say it would not be wise, in some cases, not possible to do that. So this is a Sensitive Drainage Area. And while our public facilities manual, which is not a code. Its not a law. But again it is our policy and procedures followed by our Development Departments. They require that drainage not be made worse. They do not require, nor can they, that drainage be made better. So very seldom are - - - occasionally people can solve an issue with a small thing. We also cannot require a developer to make improvements off the site of their property. That is a part of the state law that governs now we look at these applications. So for all of those reasons I think that's sort of memorializes my feeling on the application and why, unfortunately, you know I think, Mr. Burkheimer, you brought up timing – that this isn't the right time. Unfortunately I think that the time is very difficult in sensitive areas like this for any area of the city. So I would leave you all with that. I truly would love to discuss the level of service of policy. That does get a bit, as some of my friends say, "geeky", but I would also point out to those of you concerned about the school, it particularly being Williams which appears to be the problem. In October of 2019, with an original report B.M. Williams was calculated at 113.1% enrollment versus capacity. I still cannot figure out how they figure out capacity but some day we're going to get to the bottom of that. In December of 2009, barely three months later that Enrollment and capacity ratio was 118.5%. So in just a couple of months or really over I guess over the course of the year you saw a 5% increase in that enrollment. If you drive down Battlefield Boulevard, drive south, when parents are picking or dropping off children at that school, the traffic goes into a lane on Battlefield Boulevard. That's a difficult and constrained site. There was an addition to the school. It only services the all-day kindergarten classes there. So I think the schools are an issue. If you are worried about the traffic. I know everybody appreciates the 150 homes, 300 cars. One hundred and fifty homes actually translates into approximately 1500 vehicles trips a day. So that's why I think its incumbent on your council to take a very close look at an outdated level of service policy that was done in 1995. So thank you for your patience and for listening to me. Dr. Ward second the motion and she may have a comment to follow-up.

Mayor: Dr. Ward.

Ward: Thank you Mr. Mayor. And certainly I concur with just about everything that Councilman Ritter had said tonight with regard to this application. Um, but we also . . . sea level rise, it is a reality and climate change and do have to look at that also. Certainly the school because I couldn't figure out how that met the level of service because it is projected to be 123%. But the sea level rise, even for where I live now, when I moved in, yeah the river is not too far across the street, but was not a flood zone. And now it is. So I understand. I especially empathize with so many who have been through so much and lost so much – your cars, your carpet, your ground level floors, you know over the last 15 and 20 years. So for that reason I'm definitely supporting a denial of this project. And it's really up to us. We've got to make sure that our citizens are protected. And these are circumstances over which you don't have any control when it comes to the water. I appreciate



everybody coming, all that you have said and want re-linger this and hopefully we can have a vote – up or down. Thank you Mr. Mayor.

Mayor: Before we vote. I would like to make a comment and I see lights on but um, Ms. Ritter I appreciate your comments because as I heard so many people speak, I wondered how their developments got approved, considering. I would like to. . ., Mr. Burkheimer you predicted we would vote this down but before we do vote I would like to give you an opportunity to address some of these, I think the T-COD issue, the flood plain program, and some other comments. Would you like to come to the podium to address any of those statements that you heard tonight?

Burkheimer: Thank you Mr. Mayor for the grace of that offer. Um, I would start with the T-COD issue with an extremely polished professional statement that this is the first moment at which I had any idea that T-COD affected this particular property. I do not recall and I will plead being 71 and  $\frac{3}{4}$  years old if that gets me any mercy. But I honestly don't recall being advised at any point that T-COD requirements affected this property. I have dealt with many T-COD projects and are familiar with the requirements that Ms. Moore cited and I would agree with you that those requirements that she said apply would apply if T-COD affects this project. But I do not recall being made aware by the Planning Department that T-COD affected a property this far north. And if I may since you've given me this little of time; mention was made about 100 Million Dollars in Virginia Beach. I don't believe that the City of Chesapeake is spending any such nine-figure amount of money or even an eight-figure amount of money on emergency remedial storm drainage projects. I was in the Public Works Department of this city from 1972 to 77 and set up a lot of the procedures that have led to projects like Greenbriar which worked well under the rules of their day and hold their own pretty nicely even under current rules. I've designed probably 30/40% of the developments in the City of Chesapeake, including many of this area. I think they hold their own pretty nicely. I wasn't just blowing smoke on myself when I said I designed drainage that works. This isn't hard to comply with the rules that Ms. Ritter accurately sited to make sure that our drainage doesn't hurt anybody. It is practically impossible to fix the drainage problems that are out there. It is possible, given enough money and a willingness to do downtown Norfolk classes of sea walls and pumping stations or demolish all the homes and start over and bringing in many, many tandem loads to fill and raise it up above the flood plain. It can be done but I don't think it's economically feasible. And if you need do it for Fernwood Shores you would be wanting to do it any Inland Colony and any number of other places all around the city. So, I appreciate her explanation of how the drainage rules work. We could make this work and literally not hurt anybody else and imagine if you pick one thing in your whole career to be really really good at and it's a specialty thing. It's a think that requires technical expertise, computer modeling skills and all of that and all of the sudden everybody is an experiential storm water engineer and is telling you you're full of beans. That is rather insulting. I expect no different from my friends in the community here. I'm surprised that City Council doesn't know and acknowledge better than that and I'm surprised that the professional staff is not in a position to come up and say 'yes' we could design this to where it didn't hurt

existing conditions at all and that leaves us with a separate question of what to do about the drainage. I could talk about with the grace you've given me some other things like the traffic but I choose not to because I don't think its going to make any difference. We know where this is going. But I do appreciate the opportunity to expound at list a little bit on the drainage and to confess absolute unmitigated ignorance on the T-COD issue. Thank you.

Mayor: Thank you sir. Uh, Mr. Ike.

Ike: Mr. Manager is Mr. Tate in the building?

Tate: Yes sir.

Ike: Thank you.

Thank you Mr. Tate. Drainage seems to be a big issue tonight. What is the actual issue? Is this property, is this application going to exacerbate or increase the flooding in this area? What is your staff's professional opinion?

Tate: I work closely with Public Works. So we review the development plans with the sole purpose to make sure like Ms. Ritter indicated that there is no detrimental impact, but we are also familiar with how the existing systems around the area work because we work so closely with Public Works. And what I would tell you is there's a lot of areas directly around here that are significantly challenged by the elevation of the land that was developed years and years ago. And as a result of that there's tidal flooding with or without rain and those people they do receive flooding frequently but no matter how well you develop the remaining undeveloped areas, you're not going to improve their situation short of either retreating in buying properties which the Fire Department has, you know, pursued through some FEMA grants or elevating the property and there's been some houses raised and things like that. This project could be designed with the development criteria so that it wouldn't have a detrimental effect.

**END OF TRANSCRIPTION**